



Award No. 14523
Docket No. MW-13847

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David H. Brown, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
TENNESSEE CENTRAL RAILWAY COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it failed and refused to allow B&B employes Alvin McCormick, Othel Carr, Kenneth Loden, Claude Treadway, R. A. Hughes, W. H. Albright, E. L. Porter, Farris Givens, Dallas Loden, Arnel Green, Virgil Treadway, J. K. Dickson and Robert Crawford eight (8) hours' pay each at their respective pro-rata rates as holiday pay for Thanksgiving Day, 1961.

(2) Each of the employes named in Part (1) of this claim be allowed eight (8) hours' pay at his respective pro-rata rate.

EMPLOYES' STATEMENT OF FACTS: Each of the Claimants had established over 60 days' seniority prior to the subject holiday.

Each of the Claimants is an hourly rated employe.

Each of the Claimants was assigned to and did perform compensated service on November 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15 and 16, 1961. Consequently, each Claimant had compensation for service paid him by the Carrier credited to more than 11 of the 30 calendar days immediately preceding the subject holiday.

The Claimants were not assigned to work on November 22 and 24, 1961 (the work days immediately preceding and following the holiday) but they were available for service on those dates and they did not lay off of their own accord or fail to respond to any calls.

The Carrier has refused to allow each Claimant eight hours' straight time pay for the Thanksgiving Day holiday of 1961.

The Agreement in effect between the two parties to this dispute dated September 1, 1942, together with supplements, amendments, and interpretations thereto is by reference made a part of this Statement of Facts.

Subject to the qualifying requirements applicable to other than regularly assigned employees contained in Section 3 hereof, all others who have been employed on hourly or daily rated positions shall receive eight hours' pay at the pro rata hourly rate of the position on which compensation last accrued to him for each of the above-identified holidays if the holiday falls on a work day of the work week as defined in Section 3 hereof, provided (1) compensation for service paid him by the Carrier is credited to 11 or more of the 30 calendar days immediately preceding the holiday and (2) he has had a seniority date for at least 60 calendar days or has 60 calendar days of continuous active service preceding the holiday beginning with the first day of compensated service, provided employment was not terminated prior to the holiday by resignation, for cause, retirement, death, non-compliance with a union shop agreement, or disapproval of application for employment.

The provisions of this Section and Section 3 hereof applicable to other than regularly assigned employees are not intended to abrogate or supersede more favorable rules and practices existing on certain Carriers under which other than regularly assigned employees are being granted paid holidays.

NOTE: This rule does not disturb agreements or practices now in effect under which any other day is substituted or observed in place of any of the above enumerated holidays.

Section 3. A regularly assigned employee shall qualify for the holiday pay provided in Section 1 hereof if compensation paid him by the Carrier is credited to the work days immediately preceding and following such holiday or if the employee is not assigned to work but is available for service on such days. If the holiday falls on the last day of a regularly assigned employee's work week, the first work day following his rest days shall be considered the work day immediately following. If the holiday falls on the first work day of his work week, the last work day of the preceding work week shall be considered the work day immediately preceding the holiday.

All others for whom holiday pay is provided in Section 1 hereof shall qualify for such holiday pay if on the work day preceding and the workday following the holiday they satisfy one or the other of the following conditions:

- (i) Compensation for service paid by the Carrier is credited; or
- (ii) Such employee is available for service."

(Exhibits not reproduced.)

OPINION OF BOARD: In this case 13 named employees are claiming holiday pay for Thanksgiving Day 1961. Claimants were regularly assigned hourly rated employees who were laid off by the Carrier during the period November 17, 1961 to December 3, 1961.

On the basis of our decision in Award 14515, two Claimants, Othel Carr and Virgil Threadway did not qualify for holiday pay. The former having been

on paid vacation Thanksgiving Day and the latter did not have the required eleven days of compensation credited to the 30 days immediately preceding the holiday.

The remaining eleven (11) named Claimants met all the qualifying requirements of Article III of the August 19, 1960 Agreement. Their claims for Thanksgiving Day 1961 are accordingly sustained.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated.

AWARD

Claim sustained to the extent prescribed in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 17th day of June 1966.